

Assembly Bill No. 2564

Passed the Assembly August 31, 2012

Chief Clerk of the Assembly

Passed the Senate August 31, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend, repeal, and add Sections 21080.21 and 21100.2 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2564, Ma. Environmental quality: pipelines: project applicants.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA exempts a project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline, as defined, or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline. Existing law excludes from the definition of pipeline, for purposes of this exemption, certain surface facilities.

This bill would, until January 1, 2018, revise that definition of pipeline to delete the exclusion of those surface facilities and to include surface accessories or appurtenances to a pipeline. The bill would require a resource agency, as defined, when determining the applicability of the exemption of pipelines from the act with regard to a natural gas pipeline safety enhancement activity, as defined, to consider only the length of pipeline that is within its legal jurisdiction. The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the exemption of pipelines from the act and upon a local agency that is a resource agency regarding the applicability of the exemption regarding a natural gas pipeline safety enhancement activity.

The bill would, until January 1, 2018, authorize a public agency to establish a process that would allow an applicant for a natural gas pipeline safety enhancement activity to elect to pay additional

fees to be used by the public agency in determining whether to approve that activity by entering into a contract with one or more 3rd parties to assist the public agency to perform the analysis.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) On September 9, 2010, a 30-inch-diameter segment of an intrastate natural gas transmission pipeline ruptured in a residential neighborhood in the City of San Bruno. The rupture caused an explosion and fire devastating a community and igniting a call to action.

(b) Pursuant to PUC order and Section 958 of the Public Utilities Code, enacted by Assembly Bill 56 (Chapter 519 of the Statutes of 2011), gas corporations are required to prepare comprehensive pressure testing implementation plans to pressure test or replace all intrastate natural gas transmission pipelines as soon as practicable.

(c) The scope of work to be accomplished within the implementation plans is unprecedented and will create thousands of jobs within the state.

(d) The safe and expeditious completion of these pipeline safety enhancements is a state and public safety priority.

(e) It is a matter of statewide concern to achieve the timely completion of natural gas pipeline safety enhancements, including programs for maintenance and operation enhancements, and to contribute to the public's confidence in the safety of natural gas pipelines and their ongoing maintenance and operation.

SEC. 2. Section 21080.21 of the Public Resources Code is amended to read:

21080.21. (a) This division does not apply to any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline.

(b) For purposes of this section, “pipeline” means subsurface pipelines and subsurface or surface accessories or appurtenances to a pipeline, such as mains, traps, vents, cables, conduits, vaults, valves, flanges, manholes, and meters.

(c) In determining the applicability of the exemption provided by this section to a natural gas pipeline safety enhancement activity under review by a resource agency, the resource agency shall consider only the length of pipeline that is within its legal jurisdiction.

(d) For purposes of this section, the following definitions shall apply:

(1) “Natural gas pipeline safety enhancement activity” means an activity undertaken by a public utility as part of a program to enhance the safety of intrastate natural gas pipelines in accordance with a decision, rule, or regulation adopted by the Public Utilities Commission.

(2) “Resource agency” means the State Lands Commission, the California Coastal Commission, the Department of Fish and Game, or the State Water Resources Control Board, and local or regional agencies with permitting authority under the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)) or Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 3. Section 21080.21 is added to the Public Resources Code, to read:

21080.21. (a) This division does not apply to any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline. For purposes of this section, “pipeline” includes subsurface facilities

but does not include any surface facility related to the operation of the underground facility.

(b) This section shall become operative January 1, 2018.

SEC. 4. Section 21100.2 of the Public Resources Code is amended to read:

21100.2. (a) (1) For projects described in subdivision (c) of Section 21065, each state agency shall establish, by resolution or order, time limits that do not exceed the following:

(A) One year for completing and certifying environmental impact reports.

(B) One hundred eighty days for completing and adopting negative declarations.

(2) The time limits specified in paragraph (1) shall apply only to those circumstances in which the state agency is the lead agency for a project. These resolutions or orders may establish different time limits for different types or classes of projects, but all limits shall be measured from the date on which an application requesting approval of the project is received and accepted as complete by the state agency.

(3) No application for a project may be deemed incomplete for lack of a waiver of time periods prescribed in state regulations.

(4) The resolutions or orders required by this section may provide for a reasonable extension of the time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

(b) If a draft environmental impact report, environmental impact report, or focused environmental impact report is prepared under a contract to a state agency, the contract shall be executed within 45 days from the date on which the state agency sends a notice of preparation pursuant to Section 21080.4. The state agency may take longer to execute the contract if the project applicant and the state agency mutually agree to an extension of the time limit provided by this subdivision.

(c) (1) A public agency may establish a process that would allow an applicant for a natural gas pipeline safety enhancement activity to elect to pay additional fees to be used by the public agency in determining whether to approve a natural gas pipeline safety enhancement activity by entering into a contract with one or more third parties to assist the public agency to perform the analysis, consistent with Article VII of the California Constitution

and Section 19130 of the Government Code and the charter of a chartered city or county, as applicable. The public agency may, but is not required to, offer an applicant the option to pay those fees and subject a project to this process.

(2) All fees paid by a natural gas pipeline safety enhancement activity applicant shall be used exclusively for analysis of that applicant's application for certification.

(3) For purposes of this section, "natural gas pipeline safety enhancement activity" has the same meaning as defined in paragraph (1) of subdivision (d) of Section 21080.21.

(d) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 5. Section 21100.2 is added to the Public Resources Code, to read:

21100.2. (a) (1) For projects described in subdivision (c) of Section 21065, each state agency shall establish, by resolution or order, time limits that do not exceed the following:

(A) One year for completing and certifying environmental impact reports.

(B) One hundred eighty days for completing and adopting negative declarations.

(2) The time limits specified in paragraph (1) shall apply only to those circumstances in which the state agency is the lead agency for a project. These resolutions or orders may establish different time limits for different types or classes of projects, but all limits shall be measured from the date on which an application requesting approval of the project is received and accepted as complete by the state agency.

(3) No application for a project may be deemed incomplete for lack of a waiver of time periods prescribed in state regulations.

(4) The resolutions or orders required by this section may provide for a reasonable extension of the time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

(b) If a draft environmental impact report, environmental impact report, or focused environmental impact report is prepared under a contract to a state agency, the contract shall be executed within 45 days from the date on which the state agency sends a notice of preparation pursuant to Section 21080.4. The state agency may

take longer to execute the contract if the project applicant and the state agency mutually agree to an extension of the time limit provided by this subdivision.

(c) This section shall become operative January 1, 2018.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to achieve the timely completion of natural gas pipeline safety enhancements, including programs for maintenance and operation enhancements, and to contribute to the public's confidence in the safety of natural gas pipelines and their ongoing maintenance and operation, thereby protecting public health and safety, it is necessary for this act to take effect immediately.

Approved _____, 2012

Governor